



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

09/858,192

05/14/2001

Winston W. Hodge

COAX 01.005

9642

48008

7590

03/08/2006

VIRTUAL LEGAL, P.C.

MICHAEL A. KERR

3476 EXECUTIVE POINTE WAY, UNIT 16

CARSON CITY, NV 89706

EXAMINER

KOENIG, ANDREW Y

ART UNIT

PAPER NUMBER

2611

DATE MAILED: 03/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/858,192

Applicant(s)

HODGE, WINSTON W.

Examiner

Andrew Y. Koenig

Art Unit

2611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 24,28,30,34,35 and 42-46 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 24,28,30,34,35 and 42-46 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to claims 24, 28, 30, 34-35, and 42-46 have been considered but are moot in view of the new ground(s) of rejection.

### ***Priority***

This application repeats a substantial portion of prior Application No. 09/162,313, filed 28 September 1998, and adds and claims additional disclosure not presented in the prior application. Since this application names an inventor or inventors named in the prior application, it may constitute a continuation-in-part of the prior application. Should applicant desire to obtain the benefit of the filing date of the prior application, attention is directed to 35 U.S.C. 120 and 37 CFR 1.78.

Specifically, the preliminary amendment filed coincident with the filing of the instant application adds additional disclosure not presented in the prior application. For instance, on page 2 of the pre-amendment, the first paragraph includes telephony as being part of the Ethernet data frames. However, nowhere in the parent application does it mention that telephony packets are part of Ethernet frames. Whereas, the examiner recognizes that the disclosure supports digital telephony channel formatted with Internet protocol frames. The examiner notes that Internet protocol frames is identical to Ethernet frames; further Internet protocol frame neither implicitly nor inherently suggest Ethernet frames.

***Specification***

The abstract of the disclosure does not commence on a separate sheet in accordance with 37 CFR 1.52(b)(4). A new abstract of the disclosure is required and must be presented on a separate sheet, apart from any other text.

In the application as originally filed, the abstract has been amended, but no new abstract has been presented on a separate sheet, apart from any other text.

The application is objected to because of alterations which have not been initialed and/or dated as is required by 37 CFR 1.52(c). A properly executed oath or declaration which complies with 37 CFR 1.67(a) and identifies the application by application number and filing date is required. Please see the specification on page 8, line 11. Accordingly, a new amendment reflecting the change is necessary, as the change in the application as originally filed is not acceptable.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 28 and 30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 28 depends from cancelled claim 1 (see line 1). Consequently, the scope of the claim is rendered indefinite. For the sake of complete and thorough prosecution, claim 28 will be interpreted as depending from claim 24.

Claim 30 depends from cancelled claim 6 (see line 1). Consequently, the scope of the claim is rendered indefinite. For the sake of complete and thorough prosecution, claim 28 will be interpreted as depending from claim 24.

### ***Claim Objections***

4. Claim 30 recites the limitation "said content title server" in lines 2-3. There is insufficient antecedent basis for this limitation in the claim. For the rest of this Office action, "said content title server" will be interpreted as "a "content title server."

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 24 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,484,318 to Shioda et al. (Shioda) in view of U.S. Patent 6,490,274 to Kim and U.S. Patent 5,987,518 to Gotwald.

Regarding claim 24, Shioda teaches a headend configured to process digital video and Internet data (fig. 1, col. 5-6, ll. 65-3).

Shioda is silent on telephony data. In analogous art, Kim teaches providing telephony through a cable television network using cable phones 208, 214, 246, and 248 as shown in figure 2 for having a telephone conversation using IP protocol (col. 4, ll. 1-18). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Shioda by providing telephony data as taught by Kim in order to provide additional services, wherein the telephony service has advantages of low cost (Kim: col. 1, ll. 21-30).

Shioda teaches a composite wideband RF channel (CATV net 40), configured to communicate QAM output (see modulator 16, col. 5, ll. 33-52). Shioda teaches a downstream communication unit (10a) which modulates data in the downstream by QAM, which is sent on one of plurality of analog channels, wherein the QAM modulated digital signal is within the 6 MHz analog channel (col. 5, ll. 47-52, col. 6, ll. 20-36). Further, Shioda teaches a plurality of downstream communication units (10a) (which equates to a headend encoder) (col. 6, ll. 3-10, col. 6, ll. 50-54), wherein each of the downstream communication units comprises a QAM modulator for generating a QAM output (col. 6, ll. 20-36). Shioda teaches each of encoders configured to received digital data formatted as Ethernet data with Internet protocol and converts the signals to cable packets and modulates them by a QAM modulator (see fig. 11, col. 11, ll. 23-40).

Shioda is silent on converting the signals to an MPEG-2 bit stream. In analogous art, Gotwald teaches a single encoder comprising at least transport encapsulation (44), header addition (46), and modulation (62) for converting Ethernet and Internet protocols into MPEG protocol (col. 3, ll. 33-50, col. 4, ll. 29-38, col. 4, ll. 51-54), for the benefit of

Art Unit: 2611

provide Internet access to the vast population using existing hardware thereby resulting in a lower cost (col. 1, ll. 59-65). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Shioda by encoding Internet protocol signals into MPEG as taught by Gotwald in order to use the existing hardware thereby resulting in a lower cost in that the system uses already existing hardware.

Shioda teaches a main controller (11) to specify a head end encoder that generates the bit stream that is modulated by the QAM modulator (col. 10, ll. 20-53), which equates to an addressable controller, and Shioda teaches a mixer/distributor is coupled to each of the plurality of head end encoders, and configured to stack each of the outputs to generate the composite wideband signal (col. 5, ll. 33-52, col. 6, ll. 20-36).

Regarding claim 28, Shioda teaches return path demodulators (fig. 1, label 20), which receive upstream information and communicates the upstream information to the main controller (claimed addressable controller) (col. 6, ll. 37-53, col. 10, ll. 20-53, col. 22, ll. 12-35).

7. Claims 30, 34, and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,484,318 to Shioda et al. (Shioda), U.S. Patent 6,490,274 to Kim, and U.S. Patent 5,987,518 to Gotwald in view of U.S. Patent 6,378,130 to Adams.

Regarding claim 30, Shioda teaches a content server, comprising video (fig. 1, label 28), but is silent on plural content servers having plural video content and content servers in communication with a content title server. Adams teaches plural content servers (fig. 5, label 76) and content servers in communication with an addressable controller (14) (col. 8, ll. 23-32, col. 2-3, ll. 67-18), wherein the addressable controller equates to a content title server. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Shioda by using plural content servers having plural video content and content servers in communication with a content title server as taught by Adams in order to provide video content for a plurality of users efficiently, without overloading a single video server.

Regarding claim 34, Shioda teaches a headend configured to process digital video and Internet data (fig. 1, col. 5-6, ll. 65-3).

Shioda is silent on telephony data. In analogous art, Kim teaches providing telephony through a cable television network using cable phones 208, 214, 246, and 248 as shown in figure 2 for having a telephone conversation using IP protocol (col. 4, ll. 1-18). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Shioda by providing telephony data as taught by Kim in order to provide additional services, wherein the telephony service has advantages of low cost (Kim: col. 1, ll. 21-30).

Shioda teaches a composite wideband RF channel (CATV net 40), configured to communicate QAM output (see modulator 16, col. 5, ll. 33-52). Shioda teaches a downstream communication unit (10a) which modulates data in the downstream by



QAM, which is sent on one of plurality of analog channels, wherein the QAM modulated digital signal is within the 6 MHz analog channel (col. 5, ll. 47-52, col. 6, ll. 20-36).

Further, Shioda teaches a plurality of downstream communication units (10a) (which equates to a headend encoder) (col. 6, ll. 3-10, col. 6, ll. 50-54), wherein each of the downstream communication units comprises a QAM modulator for generating a QAM output (col. 6, ll. 20-36). Shioda teaches each of encoders configured to received digital data formatted as Ethernet data with Internet protocol and converts the signals to cable packets and modulates them by a QAM modulator (see fig. 11, col. 11, ll. 23-40).

Shioda is silent on converting the signals to an MPEG-2 bit stream. In analogous art, Gotwald teaches a single encoder comprising at least transport encapsulation (44), header addition (46), and modulation (62) for converting Ethernet and Internet protocols into MPEG protocol (col. 3, ll. 33-50, col. 4, ll. 29-38, col. 4, ll. 51-54), for the benefit of provide Internet access to the vast population using existing hardware thereby resulting in a lower cost (col. 1, ll. 59-65). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Shioda by encoding Internet protocol signals into MPEG as taught by Gotwald in order to use the existing hardware thereby resulting in a lower cost in that the system uses already existing hardware.

Shioda teaches a main controller (11) to specify a head end encoder that generates the bit stream that is modulated by the QAM modulator (col. 10, ll. 20-53), which equates to an addressable controller, and Shioda teaches a mixer/distributor is coupled to each of the plurality of head end encoders, and configured to stack each of

the outputs to generate the composite wideband signal (col. 5, ll. 33-52, col. 6, ll. 20-36).

Shioda teaches return path demodulators (fig. 1, label 20), which receive upstream information and communicates the upstream information to the main controller (claimed addressable controller) (col. 6, ll. 37-53, col. 10, ll. 20-53, col. 22, ll. 12-35).

Shioda teaches a main controller coupled to the return path demodulator (fig. 1), but is silent on a server configured to provide orientation for selected content. Adams teaches an addressable controller (14) (col. 8, ll. 23-32, col. 2-3, ll. 67-18), wherein the addressable controller server provides orientation for selected content. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Shioda by using server configured to provide orientation for selected content as taught by Adams in order to efficiently transmit information requested by the user to the appropriate user of the system.

Regarding claim 35, Shioda teaches a content server, comprising video (fig. 1, label 28), but is silent on plural content servers having plural video content and content servers in communication with a content title server. Adams teaches plural content servers (fig. 5, label 76) and a content servers in communication with an addressable controller (14) (col. 8, ll. 23-32, col. 2-3, ll. 67-18), wherein the addressable controller equates to a content title server. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Shioda by using plural content servers having plural video content and content servers in communication

with a content title server as taught by Adams in order to provide video content for a plurality of users efficiently, without overloading a single video server.

8. Claims 42-45 rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,484,318 to Shioda et al. (Shioda) in view of U.S. Patent 5,987,518 to Gotwald and U.S. Patent 6,378,130 to Adams.

Regarding claim 42, Shioda teaches a headend configured to process digital video and Internet data (fig. 1, col. 5-6, ll. 65-3).

Shioda teaches a composite wideband RF channel (CATV net 40), configured to communicate QAM output (see modulator 16, col. 5, ll. 33-52). Shioda teaches a downstream communication unit (10a) which modulates data in the downstream by QAM, which is sent on one of plurality of analog channels, wherein the QAM modulated digital signal is within the 6 MHz analog channel (col. 5, ll. 47-52, col. 6, ll. 20-36). Further, Shioda teaches a plurality of downstream communication units (10a) (which equates to a headend encoder) (col. 6, ll. 3-10, col. 6, ll. 50-54), wherein each of the downstream communication units comprises a QAM modulator for generating a QAM output (col. 6, ll. 20-36). Shioda teaches each of encoders configured to received digital data formatted as Ethernet data with Internet protocol and converts the signals to cable packets and modulates them by a QAM modulator (see fig. 11, col. 11, ll. 23-40).

Shioda is silent on converting the signals to an MPEG-2 bit stream. In analogous art, Gotwald teaches a single encoder comprising at least transport encapsulation (44), header addition (46), and modulation (62) for converting Ethernet and Internet protocols

Art Unit: 2611

into MPEG protocol (col. 3, ll. 33-50, col. 4, ll. 29-38, col. 4, ll. 51-54), for the benefit of provide Internet access to the vast population using existing hardware thereby resulting in a lower cost (col. 1, ll. 59-65). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Shioda by encoding Internet protocol signals into MPEG as taught by Gotwald in order to use the existing hardware thereby resulting in a lower cost in that the system uses already existing hardware.

Shioda teaches a main controller (11) to specify a head end encoder that generates the bit stream that is modulated by the QAM modulator (col. 10, ll. 20-53), which equates to an addressable controller, and Shioda teaches a mixer/distributor is coupled to each of the plurality of head end encoders, and configured to stack each of the outputs to generate the composite wideband signal (col. 5, ll. 33-52, col. 6, ll. 20-36).

Shioda teaches return path demodulators (fig. 1, label 20), which receive upstream information and communicates the upstream information to the main controller (claimed addressable controller) (col. 6, ll. 37-53, col. 10, ll. 20-53, col. 22, ll. 12-35).

Shioda teaches a main controller coupled to the return path demodulator (fig. 1), but is silent on a server configured to provide orientation for selected content. Adams teaches an addressable controller (14) (col. 8, ll. 23-32, col. 2-3, ll. 67-18), wherein the addressable controller server provides orientation for selected content. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was

made to modify Shioda by using server configured to provide orientation for selected content as taught by Adams in order to efficiently transmit information requested by the user to the appropriate user of the system.

Regarding claim 43, Shioda teaches a content server, comprising video (fig. 1, label 28), but is silent on plural content servers having plural video content and content servers in communication with a content title server. Adams teaches plural content servers (fig. 5, label 76) and a content servers in communication with an addressable controller (14) (col. 8, ll. 23-32, col. 2-3, ll. 67-18), wherein the addressable controller equates to a content title server. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Shioda by using plural content servers having plural video content and content servers in communication with a content title server as taught by Adams in order to provide video content for a plurality of users efficiently, without overloading a single video server.

Regarding claims 44-45, Shioda teaches a headend configured to process digital video and Internet data (fig. 1, col. 5-6, ll. 65-3).

9. Claim 46 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,484,318 to Shioda et al. (Shioda), U.S. Patent 5,987,518 to Gotwald, and U.S. Patent 6,378,130 to Adams in view of U.S. Patent 6,490,274 to Kim.

Regarding claim 46, Shioda is silent on telephony data. In analogous art, Kim teaches providing telephony through a cable television network using cable phones 208, 214, 246, and 248 as shown in figure 2 for having a telephone conversation using IP

protocol (col. 4, ll. 1-18). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Shioda by providing telephony data as taught by Kim in order to provide additional services, wherein the telephony service has advantages of low cost (Kim: col. 1, ll. 21-30).

### ***Conclusion***


10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew Y. Koenig whose telephone number is (571) 272-7296. The examiner can normally be reached on M-Th (7:30 - 6:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571)272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
ayk